

REMARKS

Applicants reply to the Final Office Action dated June 10, 2010 within two months. Claims 1-14 and 16-23 are pending in the application and the Examiner rejects claims 1-14 and 16-23. Support for the amendments may be found in the originally-filed specification. No new matter is entered with these amendments. Applicants respectfully request reconsideration of this application.

Rejections under 35 U.S.C § 103

The Examiner rejects claims 1-2, 6-11, 13 and 21 under 35 U.S.C. § 103(a), as being unpatentable over Cannon et al., U.S. Patent No. 6,154,729, ("Cannon"), in view of Lee et al., U.S. Publication No. 2002/0099649 ("Lee") and further in view of Richey et al., U.S. Patent No. 7,356,516 ("Richey") Applicants respectfully disagree with the Examiner's rejections; however, Applicants amend certain claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution.

Cannon generally teaches a "method of reporting merchant information to banks via the World Wide Web including compiling merchant information periodically into reports," (abstract.) The Examiner (at pages 3 and 4) concedes that Cannon does not explicitly teach "...assessing by the computer based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio; and wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant."

Applicants request clarification to Examiner's statement at page 4 of the Office Action which reads: "note that the prior art teaches credit exceed credit risk for chargebacks and explicitly teaches information provides chragebacks as a percentage of sales which fairly suggest that the merchants sales exception report incorporates merchants exceeding merchant's ratio."

Lee is offered by the Examiner to cure what is lacking in Cannon. Lee generally teaches "Transaction processing of online transactions at merchant sites" (abstract). Specifically, Lee discloses "In addition to paying a fee for each chargeback, issuing banks can levy fines on merchants having too many chargebacks. Typically 1.5-3.0% of the merchant's chargeback

volume, such fines can range from a few hundred dollars per month, to \$10,000 or even \$100,000 per month, with fines escalating higher as chargebacks continue unabated,” (paragraph [0019], emphasis added). Stated another way, Lee teaches either (1) paying a fee for each chargeback or (2) levying a fine on the total chargeback volume if the merchant has too many chargebacks. **Lee teaches what is routinely done in the art, namely charging a fee for each chargeback, in contrast to “assessing a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.**

Moreover, Lee is silent as to the “predetermined threshold ratio is set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20. **Stated another way, Lee is silent as to relating transaction value amount of each transaction to fees and/or fines.** One exemplary advantage of tying a threshold ratio to transaction value amount is disclosed in Paragraph [0018] of the present application, which states “the threshold ratio may be based on additional factors such as the dollar amount of a transaction, wherein a lower threshold may be applied to higher value transactions.” **In fact, Lee teaches away from a threshold ratio being based upon a transaction value amount of each of the disputed credit transactions by levying a set fine based upon total volume (without regard for individual transaction value), such as “1.5-3.0% of the merchant's chargeback volume,” (emphasis added).**

Richey generally discloses “A system for facilitating payment transaction disputes is provided” (abstract). The Examiner alleges (at pages 4 and 5 of the Office Action) that Richey teaches “...wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant.” However, Applicants respectfully assert that the sections of Richey cited by the Examiner do not disclose a “threshold ratio (of chargebacks) set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20. With regards to penalties and/or assessed fees Richey is limited to:

Once a ruling has been made by the analyst, both parties to a dispute are notified of the decision and the fees, penalties and fines levied, if any. Amounts and fees may be divided between the parties to the dispute. The analyst has the discretion to adjust these amounts.

(col. 16, lines 51-5). And

The online dispute resolution system 10 is able to search on an account number, transaction ID, date range and transaction amount. This flexibility accommodates differences in system dates and any possible fees included in the amount. The online dispute resolution system 10 can also retrieve sales transactions and any associated credits, reversals and adjustments. The search can further be limited by inputting a dollar amount for sales transactions.

(col. 5, lines 26-33, emphasis added).

Though Richey discusses searching transaction amounts or an analyst adjusting a fee, Richey, similar to Lee and Cannon above, is silent to both “assessing a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, and wherein the predetermined threshold ratio is set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Thus, Cannon, Lee, Richey, alone or in combination, do not disclose or contemplate at least “assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Dependent claims 2, 6-11, 13 and 21 variously depend from independent claims 1, 14 and 20. Therefore, Applicants assert that dependent claims 1-2, 6-11, 13 and 21 are patentable for at least the same reasons stated above for differentiating independent claims 1, 14 and 20 as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 1-2, 6-11, 13 and 21.

The Examiner next rejects claims 3-5, 12, 14-20 and 22-23 under 35 U.S.C. § 103(a), as being unpatentable over Cannon in view of Lee and Richey and in further view of Sharper et al., U.S. Publication No. 2004/0030644 (“Sharper”). Applicants respectfully disagree with the Examiner’s rejections; however, Applicants amend certain claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution. Claim 15 was previously cancelled, so the rejection is moot.

Sharper generally teaches “a method for facilitating charge card transactions including evaluating electronically transmitted data relating to a charge card transaction and guaranteeing a charge card transaction that meets certain criteria against risk of loss,” (abstract.) Sharper is silent to and thus does not disclose or contemplate at least “assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20.

Thus, Cannon, Lee, Richey, Sharper, alone or in combination, do not disclose or contemplate at least “assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the predetermined threshold ratio is set based on a transaction value amount of each of the disputed credit transactions of the merchant,” as recited by independent claim 1 (emphasis added) and similarly recited by independent claims 14 and 20.

Dependent claims 3-5, 12, 16-19 and 22-23 variously depend from independent claims 1, 14 and 20. Therefore, Applicants assert that dependent claims 3-5, 12, 16-19 and 22-23 are patentable for at least the same reasons stated above for differentiating independent claims 1, 14 and 20 as well as in view of their own respective features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 3-5, 12, 16-19 and 22-23.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following:

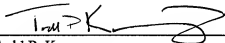
(1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. Applicants invite the Examiner to telephone the undersigned, if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: August 10, 2010

By: _____


Todd P. Komaromy
Reg. No. 64,680

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6321
Fax: 602-382-6070
Email: tkomaromy@swlaw.com